

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.



Issued July 13, 1938

UNITED STATES DEPARTMENT OF AGRICULTURE
 AGRICULTURAL ADJUSTMENT ADMINISTRATION
 WASHINGTON, D. C.

(Review Regulations)

REGULATIONS GOVERNING (A) APPLICATIONS AND
 HEARINGS UNDER SECTION 363 OF TITLE III OF THE
 AGRICULTURAL ADJUSTMENT ACT OF 1938 RELATING
 TO ADMINISTRATIVE REVIEW OF MARKETING
 QUOTAS FOR TOBACCO, CORN, WHEAT, COTTON, AND
 RICE ESTABLISHED UNDER SAID TITLE AND (B)
 THE PUBLICATION AND NOTICE OF SUCH QUOTAS
 UNDER SECTION 362 OF SAID ACT (PUBLIC, NO. 430—
 75th CONGRESS—52 STAT. 31, AS AMENDED)

UNITED STATES DEPARTMENT OF AGRICULTURE,
Office of the Secretary.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act of 1938, I, HENRY A. WALLACE, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations, to be in force and effect from the date hereof until amended or superseded by regulations hereafter made by the Secretary of Agriculture under the authority of said act.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington, this 13th day of July, 1938.

H. A. Wallace
Secretary of Agriculture.

TABLE OF CONTENTS

ARTICLE		Page
I.	Definitions: Section 100.....	2
II.	Publication of acreage allotments and marketing quotas and notice of quotas:	
	Section 200. Publication.....	3
	201. List of acreage allotments.....	3
	202. List of marketing quotas.....	3
	203. Notice of quotas.....	4
	204. Other regulations.....	4

1.42
 A 94
 2
 1938
 SEP 1

ARTICLE III. Applications for review of quotas:		Page
Section 300. Manner and time of filing application	---	4
301. Contents of application	-----	4
302. Record of applications	-----	5
303. Insufficient and untimely applications	---	5
304. Clerk to review committee	-----	5
305. Transmission of information	-----	5
IV. The review committee:		
Section 400. Eligibility	-----	5
401. Establishment	-----	5
402. Vacancies	-----	6
403. Manner of designation	-----	6
404. Time of designation	-----	6
405. Period of designation	-----	6
406. Reservation of powers of Secretary of Agriculture	-----	6
407. Effect of changes in review committee	---	6
408. Compensation	-----	6
V. Hearings:		
Section 500. Place of hearing	-----	7
501. Notice of hearing	-----	7
502. Time and place of hearing	-----	7
503. Conduct and scope of hearing	-----	7
504. Representation	-----	8
505. Withdrawal of applications	-----	8
506. Nonappearance of applicant	-----	8
507. Evidence	-----	8
508. Burden of proof	-----	8
509. Time consumed by hearing; briefs	---	8
510. Consolidation of hearings	-----	9
511. Amendments	-----	9
512. Reopening hearing	-----	9
513. Determination by review committee	---	9
514. Service of determination	-----	9
515. The record	-----	10
VI. Court proceedings: Section 600. Duty of review committee		10
VII. Forms and custody and inspection of records:		
Section 700. Forms	-----	11
701. Custody	-----	11
702. Filing of papers by hearing clerk	---	11
703. Inspection	-----	11
VIII. Construction: Section 800	-----	11
IX. Public notice of foregoing regulations: Section 900	-----	11

ARTICLE I. DEFINITIONS

SECTION 100. As used in these regulations:

(a) The term "act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

(e) The term "review committee" means the review committee whose appointment by the Secretary of Agriculture is provided for by section 363 of title III of the act.

(f) The term "committee", except when referring to review committee, means a committee utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(g) The term "quota" means a marketing quota established for a farm, in the case of tobacco, corn, wheat, and cotton, and for a producer, in the case of rice, under title III of the act.

(h) The term "acreage allotment" means an acreage allotment established for a farm, in the case of corn, wheat and cotton, and for a producer, in the case of rice, under title III of the act.

(i) The term "application" means an application for review of a marketing quota, the filing of which is provided for by section 363 of title III of the act.

ARTICLE II. PUBLICATION OF ACREAGE ALLOTMENTS AND MARKETING QUOTAS AND NOTICE OF QUOTAS

SECTION 200. Publication.—(a) Immediately upon the establishment of acreage allotments and of quotas for any commodity, the county committee shall prepare a list containing the information specified in sections 201 and 202 of this article.

(b) A copy of the list so prepared shall be permanently kept freely available for public inspection in the office of the county committee, and a copy of the list shall be posted for not less than thirty days in a conspicuous place in the county (or in the case of cotton in each local administrative area in the county if the county is divided into two or more local administrative areas for the purpose of the cotton marketing quota provisions of the act). Another copy of the list shall be furnished to the County Agricultural Extension Agent who shall keep the list permanently available for public inspection in his office.

SECTION 201. List of Acreage Allotments.—The list shall contain the following information relating to acreage allotments:

(a) the allotment for each farm or, in the case of rice, for each producer;

(b) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;

(c) the serial number for each farm or, in the case of rice, for each producer;

(d) the calendar year for which such acreage allotment is made.

SECTION 202. List of Marketing Quotas.—The list shall contain the following information relating to marketing quotas:

(a) the acreage allotment, if any, for each farm or, in the case of rice, for each producer;

(b) the marketing percentage of the acreage allotment in the case of corn and wheat;

(c) the normal yield per acre for each farm in the case of corn, wheat, and cotton;

- (d) the storage amount for each farm in the case of corn;
- (e) the marketing quota for each farm or, in the case of rice, for each producer, expressed insofar as practicable in applicable units, such as pounds, bales, barrels or bushels;
- (f) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;
- (g) the serial number for each farm, or, in the case of rice, for each producer;
- (h) the marketing year or, in the case of corn, the crop, for which such marketing quota is effective.

SECTION 203. Notice of Quotas.—(a) Immediately upon the establishment of quotas for any commodity, the county committee shall mail a written notice of the quota to the producer, in the case of rice, and to the operator of the farm, in the case of tobacco, corn, wheat, or cotton. A notice to the operator of the farm shall contain at or near the top thereof the following statement: "To all persons who as operator, landlord, tenant or sharecropper are interested in the farm for which this quota is established", and such notice shall constitute notice to all such persons. The notice shall contain the information required by section 202 of this article to be contained in the list of marketing quotas for publication. The notice shall contain also, on the face or back thereof, a brief reference to, or statement of, the procedure whereby application for review of the quota may be made.

(b) A copy of each notice, containing a notation thereon, of the date of mailing, shall be kept among the records of the county committee, and, upon request, a copy of such notice, certified by the secretary of the county committee as true and correct, shall be furnished without charge to any person interested in the farm in respect to which the quota is established.

SECTION 204. Other Regulations.—The provisions of this article may be supplemented by regulations issued by the Secretary of Agriculture in respect to acreage allotments or marketing quotas for any specific commodity.

ARTICLE III. APPLICATIONS FOR REVIEW OF QUOTAS

SECTION 300. Manner and Time of Filing Application.—An application shall be in writing and addressed to, and filed with, the secretary of the county committee through which the quota sought to be reviewed was established. The application shall be filed within fifteen days after the date of mailing of the notice of such quota.

SECTION 301. Contents of Application.—The application shall be accompanied by the original mailed notice of the quota sought to be reviewed, or by a copy of such notice certified as true and correct by the secretary of the county committee, and shall contain:

- (a) the date of the application;
- (b) the correct full name and full address of the applicant;
- (c) a statement of the amount of quota which it is claimed should have been made;

- (d) a brief statement of each ground upon which the application is based;
- (e) the signature of the applicant.

SECTION 302. Record of Applications.—The secretary of the county committee shall make a notation on each application of the date of the receipt thereof by him and give such application an identification number.

SECTION 303. Insufficient and Untimely Applications.—If the secretary of the county committee finds that any application filed (a) is not in substantial compliance with the provisions of section 301 of this article, or (b) is not made within the period fixed for the filing of applications, he shall so notify the applicant in writing by depositing the writing, accompanied by a copy of these regulations, in the United States mails, registered and addressed to the applicant at his last known address. In the case of an insufficient application filed within the period fixed for the filing of applications, the applicant may, within fifteen days after the date of mailing of the notification aforesaid, file with such secretary an amended application containing the matter specified in section 301 of this article.

SECTION 304. Clerk to Review Committee.—The secretary of the county committee shall act as clerk to the review committee, unless and until some other person shall have been designated by the county committee as clerk to the review committee. The county committee may designate a person other than the secretary of the county committee to act as clerk to the review committee. If not already an employee, the person so designated shall thereby become an employee of such county committee. Immediately upon such designation, the county committee shall notify the State committee thereof. In the event of such designation, the secretary of the county committee shall transmit to the person so designated any and all applications received by him and all papers and information relating thereto.

SECTION 305. Transmission of Information.—The clerk to the review committee shall furnish to the State committee such information pertaining to applications filed with him as the State committee may require.

ARTICLE IV. THE REVIEW COMMITTEE

SECTION 400. Eligibility.—Any farmer who now is, who may hereafter become, or who is eligible to become a member of any county or community committee shall be eligible to serve on review committees to hear applications for review of quotas established in counties or communities which are adjacent to or nearby the county or community, as the case may be, for which he is a committeeman or eligible to become a committeeman. The eligibility hereby declared shall be subject at all times to the provisions of the following sections of this article. No farmer who is a member of a county or community committee of, or whose legal residence is in, one State shall be eligible to serve on a review committee in any other State.

SECTION 401. Establishment.—Three eligible farmers shall be designated to serve on a review committee for a county, a group of counties, a community, or group of communities, and of the farmers so designated one shall be named chairman, and another vice-chair-

man, of such committee. The vice-chairman shall perform the duties, and exercise the powers, of the chairman in the absence of the chairman. No review committee shall include any member of the county or community committee through which was determined any matter relating to any quota for the review of which the review committee is established. Subject to the provisions of this section and of section 400 of this article, the same farmer may be designated to serve on more than one review committee. An eligible farmer may be designated as alternate member of the committee to serve in the event of the absence of any regular member thereof, or in case of a vacancy in the committee.

SECTION 402. Vacancies.—Subject to the requirements of eligibility set forth in sections 400 and 401 of this article, a farmer shall be designated to fill any vacancy occurring in any review committee. Where a single vacancy occurs after a hearing is begun and before the final determination, the remaining two members of the committee shall thenceforth constitute an entire committee for the purposes of such hearing. If more than one such vacancy occurs, or if the two remaining members of the committee cannot agree upon a determination, there shall be a new hearing, after the filling of the vacancy, by the entire committee of three members.

SECTION 403. Manner of Designation.—The designations mentioned in sections 401 and 402 of this article with respect to a review committee and the area for which the committee shall serve, shall be made in writing by the Secretary of Agriculture and notice of such designation shall be sent to (a) the farmer so designated, (b) the clerk to the review committee, and (c) the State committee.

SECTION 404. Time of Designation.—Any designation may be made before, during, or after the period during which applications are required to be filed.

SECTION 405. Period of Designation.—A review committee shall hear applications for review of any quota established in the area for which, and becoming effective during the calendar year in which, the committee is established.

SECTION 406. Reservation of Powers of Secretary of Agriculture.—Notwithstanding any of the foregoing provisions of this article, the Secretary of Agriculture shall have the continuing power to revoke or suspend any designation made pursuant to the provisions of this article, and, subject to the provisions of the act, to make such other designation as he may deem proper.

SECTION 407. Effect of Changes in Review Committee.—Nothing contained in the foregoing provisions of this article relating to any vacancy or revocation or suspension of designation, and nothing done pursuant to such provisions, shall be construed as affecting the validity of any prior hearing conducted or determination made in accordance with these regulations, in which the member of the review committee, whose place has become vacant, participated, or as affecting in any way any court proceeding which may be instituted, pursuant to the provisions of the act, for the review of such determination.

SECTION 408. Compensation.—The members of a review committee designated in accordance with the provisions of this article shall receive the same compensation as that received by the members of

the county committee through which were established the quotas sought to be reviewed. The payment of such compensation shall be governed by instructions issued by the Agricultural Adjustment Administration. The members of a review committee shall not be entitled to receive compensation for services as members of such committee for more than thirty days in any one year. Reimbursement for travel expenses shall be made at such rates and under such conditions as may be prescribed by the Agricultural Adjustment Administration.

ARTICLE V. HEARINGS

SECTION 500. Place of Hearing.—The place of hearing shall be in the office of the county committee through which the quota sought to be reviewed was established, or such other appropriate place in the county as may be designated by the review committee.

SECTION 501. Notice of Hearing.—As soon as practicable after its establishment, the review committee shall arrange with the clerk to the committee for the appointment of the time and the designation of the place for hearing on applications. Notice of the hearing shall be given by such clerk. The notice shall be in writing and shall specify the time, place and purpose of the hearing. Such notice shall be given to the applicant by depositing the same, at least ten days prior to the time appointed for the hearing, in the United States mails, registered and addressed to the applicant at his last known address. The State committee shall also be notified in writing of such hearing. A copy of all such notices shall be kept and recorded by such clerk.

SECTION 502. Time and Place of Hearing.—Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding the prior notice, and also may, without notice other than an announcement at the hearing by the chairman of the review committee, in the exercise of the discretion of the committee, be continued from day to day, or adjourned to a different place in the county or to a later date, or to a date and place to be fixed in a subsequent notice to be issued in the manner provided in sections 500 and 501 of this article. In the temporary absence of any member of the committee, the member or members present shall postpone the hearing to a later date and place. In the absence of the entire committee, the postponement shall be made by the clerk.

SECTION 503. Conduct and Scope of Hearing.—Except as provided in section 402 of article IV of these regulations, every such hearing shall take place before the entire review committee and shall be presided over by the chairman thereof. The hearing shall be publicly conducted. The committee shall provide for the taking of such notes at the hearing as will enable it to make a written summary of the relevant evidence received at the hearing. A stenographic transcript of the testimony received shall be made if (a) the applicant requests such transcript and provides for the making thereof and for the payment of the expense therefor, or (b) the State committee requests that such transcript be made. Immediately upon the completion of any such transcript made at the request of the applicant, three legible copies thereof shall be furnished to the review

committee without charge. The committee shall consider only such matters as, under the applicable provisions of the act and regulations of the Secretary of Agriculture thereunder, are required to be considered by the county committee in the establishment of the quota sought to be reviewed. The review committee shall not give consideration to any evidence which is irrelevant to the determination of the quota for the applicant. The hearing shall be conducted in a manner determined by the committee to be conducive to the proper dispatch of business and the attainment of justice.

SECTION 504. Representation.—The applicant and the Secretary of Agriculture may be represented at the hearing.

SECTION 505. Withdrawal of Applications.—An application may be withdrawn upon the written request of the applicant. Any application so withdrawn shall be endorsed "Dismissed at the Request of the Applicant". This endorsement shall be made by the clerk to the review committee if the withdrawal takes place before the hearing and by the chairman of the committee if the withdrawal takes place after the hearing has begun.

SECTION 506. Nonappearance of Applicant.—If, at the time of such hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of such absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant, the committee may thereupon close the hearing as to such applicant, and, without further proceedings in the case, make an order dismissing the application, or continue the hearing to a later date.

SECTION 507. Evidence.—(a) The review committee shall permit the applicant, members of the appropriate county and community committees, and appropriate officers and agents of the Department, and all persons appearing on behalf of such parties, respectively, to give and produce relevant testimony and evidence, to cross-examine witnesses and to present argument on the testimony and evidence adduced at the hearing. The facts relating to any quota under review shall be ascertained in a simple and direct manner, and rules of evidence prevailing in courts of law or equity shall not be controlling. The chairman of the review committee shall administer an oath or affirmation to each person so testifying.

(b) Subject to the right of any requested cross-examination of the affiant, affidavits of general economic facts relating to the commodity in question shall be received and made part of the record of the proceedings for the purpose only of any applicable court review.

SECTION 508. Burden of Proof.—Upon all issues of fact raised by the application, the burden of proof shall be upon the applicant.

SECTION 509. Time Consumed by Hearing; Briefs.—(a) Full opportunity to be heard upon the issues raised by the application shall be afforded the applicant, the county committee, and appropriate officers and agents of the Department. The hearing, however, shall be concluded within such reasonable time as shall be determined by the review committee.

(b) Written briefs in triplicate for the consideration of the review committee may be filed with the clerk to the committee within such

reasonable time after the conclusion of the hearing as shall be prescribed by the chairman of the committee.

SECTION 510. Consolidation of Hearings.—Wherever practicable, two or more applications relating to the same commodity and the same farm shall be consolidated, and heard at the same time on the same record.

SECTION 511. Amendments.—Upon due application, and within the discretion of the review committee, the right of amendment of the application and of all procedural documents in connection with any hearing, shall be granted upon such reasonable terms as the committee may deem right and proper.

SECTION 512. Reopening Hearing.—The review committee (a) on its own motion, or upon due application therefor, may, within fifteen days from the date of mailing to the applicant of a copy of the determination of the committee, reopen the hearing for the purpose of taking additional evidence or of adding any relevant matter or document, and (b) upon application by or on behalf of the Secretary of Agriculture made for any purpose within a period of thirty days from the date of mailing to the applicant of a copy of the determination of the committee, shall reopen the hearing.

SECTION 513. Determination by Review Committee.—(a) The committee shall make an order dismissing without further hearing any insufficient application or any application which was not filed within the period required for the filing of applications.

(b) As soon as practicable after hearing on any sufficient application filed within the period required for the filing of applications, the committee shall make a determination upon the application. If it is determined by the committee that the application should be denied, the committee shall make an order dismissing the application. If it is determined that the application should be granted in whole or in part, the committee shall establish the quota which it finds to be proper. Each determination made by the committee shall be in writing and shall contain specific findings of fact and conclusions, which shall be based solely upon the testimony and evidence adduced at or in connection with the hearing. The concurrence of two members of the committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the committee as will indicate his concurrence therein or his dissent therefrom.

SECTION 514. Service of Determination.—A copy of such determination, or of any order dismissing the application, as provided in section 506 or 513 of this article, certified by the clerk to the review committee as a true and correct copy of the signed original, shall be served upon the applicant by depositing the same in the United States mails, registered and addressed to the applicant at his last known address. The copy of the determination or order shall contain at the top thereof the following statement: "To all persons who as operator, landlord, tenant or sharecropper are interested in the farm for which this quota is established," and such statement shall constitute notice to all such persons. The clerk shall make a notation on the original determination or order of the date and place of such mailing. The clerk forthwith shall forward a copy of such determina-

tion or order to the Hearing Clerk, to the chairman of the State committee, and to the chairman of the county committee.

SECTION 515. The Record.—The record of the proceedings shall be prepared by the clerk to the review committee and shall consist of the following:

(a) All procedural documents in the case under review, including the application and written notice of hearing and any other written notice in connection with the application.

(b) Copies of such pertinent proclamations, announcements, general regulations, and apportionments, national, State, or county, issued by the Secretary of Agriculture in respect to acreage allotments and marketing quotas for the commodity in question, as may be presented at the hearing by or on behalf of the Secretary of Agriculture.

(c) Any stenographic transcript or written summary of the evidence made in accordance with these regulations, to which shall be annexed any documentary evidence received at the hearing. The review committee shall make such corrections in any stenographic transcript made as will make the text conform to the correct meaning. The corrections shall be made in such manner as will not obscure the original text of the transcript. In each case which is followed by the institution by the applicant of proceedings in court for a review of the determination of the review committee, (1) the committee, in the absence of any stenographic transcript of the testimony, shall prepare a written summary of the evidence, and (2) in addition to the items mentioned in (a) and (b) above, the record shall include a copy of the notice of the designation of the members of the review committee, and a copy of these regulations.

(d) The written determination of the review committee.

(e) A list of all papers included in the record, and a certificate by the clerk to the review committee, stating that such record is true, correct and complete.

ARTICLE VI. COURT PROCEEDINGS

SECTION 600. Duty of Review Committee.—(a) The committee is required, by section 365 of title III of the act, upon the institution of any suit against the committee for the purpose of reviewing its determination upon any application for review of a quota, to certify and file in court a transcript of the record upon which the determination was made, together with the findings of fact made by the committee. Any suit for review is required to be instituted by the applicant within fifteen days after a notice of the committee's determination is mailed to him by registered mail. Such suit may be instituted in the United States District Court or in any court of record of the State having general jurisdiction, sitting in the county or the district in which the applicant's farm is located. A bill of complaint in such proceeding may be served by delivering a copy thereof to any member of the committee.

(b) Upon the institution of such suit, the clerk to the review committee shall immediately send a telegram addressed to the Hearing Clerk, Office of the Solicitor, United States Department

of Agriculture, Washington, D. C. The telegram shall state the name of the plaintiff, the name of the court in which the suit is instituted, and the time within which appearances must be made in such suit in behalf of the committee. Any member of the committee served with papers in such suit shall forward such papers to the clerk to the committee, who shall in turn forward them to the Hearing Clerk. No member of the committee shall appear or permit any appearance in his behalf or in behalf of the committee, or take any action in respect to the defense of such suit, except in accordance with the instructions from or on behalf of the Secretary of Agriculture.

ARTICLE VII. FORMS AND CUSTODY AND INSPECTION OF RECORDS

SECTION 700. Forms.—The forms required in connection with the publication, notice and review of quotas shall be prescribed by the Secretary of Agriculture.

SECTION 701. Custody.—The clerk to the review committee shall carefully keep and preserve a record of all applications and of all proceedings relating to the review of such applications.

SECTION 702. Filing of Papers by Hearing Clerk.—The Hearing Clerk shall maintain a file of all records, documents and papers specifically required by these regulations to be sent to such clerk.

SECTION 703. Inspection.—All records, documents, and papers filed with the clerk to the review committee or the Hearing Clerk shall be available for public inspection at the respective places of filing.

ARTICLE VIII. CONSTRUCTION

SECTION 800. Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary of Agriculture or of the United States (a) to exercise any jurisdiction or powers granted by title III of the act or otherwise, or (b) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE IX. PUBLIC NOTICE OF FOREGOING REGULATIONS

SECTION 900. Public notice of the issuance of the foregoing regulations shall be given by (a) publishing the regulations in the Federal Register; and (b) posting a copy of the regulations on the official bulletin board of the Department at Washington, D. C.

